

**Zoning Case No. C14-05-0112****RESTRICTIVE COVENANT**

**OWNERS:** Jimmy Nassour (Tract I)  
Jimmy Nassour, Trustee (Tract II)  
Stephen Oyster and Tina Oyster (Tract III)  
Austin 1825 Fortview, Inc., a Texas corporation (Tracts IV, V, and VI)

**ADDRESS:** See Below

**OWNER:** Contessa Dormitory Associates, Ltd., a Texas limited partnership (6.926 acres)

**ADDRESS:** 3724 West Jefferson Street, Suite 306, Austin, Texas 78731

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** A 6.926 acre tract of land, more or less, out of the Santiago Del Valle Grant, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit A attached and incorporated into this covenant; and

Tracts I, II, III, IV, V, VI, being those certain lots out of Riverside Divide Section 3 and Shamrock Addition, in the City of Austin, Travis County, as shown on Exhibit B attached and incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns.

1. Development of the Property is subject to Ordinance No. 20060831-068 that established standards for commercial design, including the development bonuses provided in Section 4.3.4 of Subchapter E.
2. A driveway that provides vehicular access from a public right-of-way to the Property may not be gated.
3. A 100-foot wide building setback shall be established from the shoreline of Town Lake. Improvements permitted within this setback zone are limited to utility crossings, drainage and water quality improvements, the hike and bike trail, or those improvements that may be otherwise required by the City of Austin or specifically authorized in this covenant.
4. The maximum height of a building or structure is 60 feet from ground level.

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# 39

5. Owner is responsible for the construction of the hike and bike trail within a 30-foot wide easement to be provided by the Owner for this purpose prior to the issuance of a certificate of occupancy for a residential project.
6. Public pedestrian access shall be provided from East Riverside Drive and Lakeshore Boulevard to Town Lake on the east and west sides of the Property.
7. A minimum of 45 residential units shall be provided as for-sale properties.
8. A maximum of 375 dwelling units for rental may be constructed on the Property.
9. A minimum of 10,000 square feet of retail uses shall be provided along East Riverside Drive.
10. An area within the Property shall be provided to allow for regional water quality controls to capture, isolate and treat a minimum 10.94 acres of stormwater runoff from off-site contributing drainage areas. The owner will work with the Watershed Protection and Development Review Department staff to identify the opportunity available to capture and treat additional run-off. The size and location of the on-site water quality controls shall be agreed to and approved by the City. The water quality controls shall comply with the water quality control standards as set forth in Section 25-8-213 of the City Code.
11. Five percent of the residential units in the vertical mixed use (VMU) building shall be reserved as affordable, for a minimum of 40 years following the issuance of the certificate of occupancy, for rental by households earning no more than 80 percent of the annual median family income (MFI).
12. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
13. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
14. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
15. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.
16. This Restrictive Covenant may be executed in any number of counterparts, each of which is deemed to be an original, and all of which are identical.

EXECUTED this the 14<sup>th</sup> day of February, 2007

OWNER(S):

6.926 acres (Exhibit A)

**Contessa Dormitory Associates, Ltd.  
a Texas limited partnership**

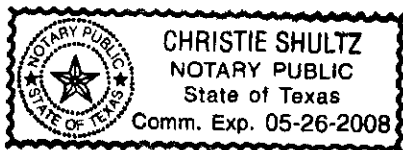
By: ASC Development, L.C.  
a Texas limited liability company,  
its General Partner

By: M. Farahani  
Manny Farahani,  
President

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 14<sup>th</sup> day of February, 2007, by Manny Farahani, President of ASC Development, L.C., a Texas limited liability company, General Partner on behalf of Contessa Dormitory Associates, Ltd., a Texas limited partnership.

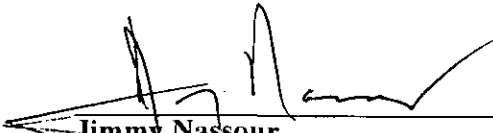


Christie Shultz  
Notary Public, State of Texas


EXECUTED this the 15th day of FEBRUARY, 2006.7

OWNER(S):

Tract I (Exhibit B)

  
Jimmy Nassour  
Address: ~~1200 San Antonio St.~~ 3839 BEE CAVE RD #200  
Austin, TX 7870146

Tract II (Exhibit B)

  
Jimmy Nassour, Trustee  
Address: ~~1200 San Antonio St.~~ 3839 BEE CAVE RD #200  
Austin, TX 7870146

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

*man* 2006,  
2007 This instrument was acknowledged before me on this the 15th day of FEBRUARY,  
by Jimmy Nassour.



  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

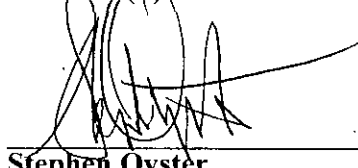
*man* 2006,  
2007 This instrument was acknowledged before me on this the 15th day of FEBRUARY,  
by Jimmy Nassour, Trustee.



  
Notary Public, State of Texas

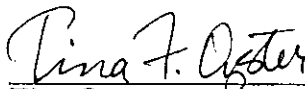
EXECUTED this the 15th day of FEBRUARY, 2006.7

OWNER(S):



Stephen Oyster

Tract III (Exhibit B)



Tina Oyster

Address: 3825 LAKE AUSTIN BLVD # 401  
AUSTIN, TX 78703

THE STATE OF TEXAS §

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*not* 2006, by Stephen Oyster. This instrument was acknowledged before me on this the 15th day of FEBRUARY, 2007



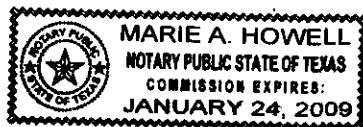


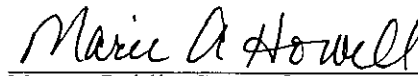
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

*not* 2006, by Tina Oyster. This instrument was acknowledged before me on this the 15th day of FEBRUARY, 2007





Notary Public, State of Texas

EXECUTED this the 15th day of FEBRUARY, 2008. 7

OWNER(S):

Tracts IV, V, VI (Exhibit B)

Austin 1825 Fortview, Inc.  
a Texas corporation

By: [Signature]

Name: Jimmy Nassour

Title: Vice President

Address:

3839 BEE CAVE RD # 200  
AUSTIN, TX 78746

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

*max* 2007 2008, by JIMMY NASSOUR, VICE PRESIDENT of Austin 1825  
Fortview, Inc., a Texas corporation, on behalf of the corporation.



Marie A Howell  
Notary Public, State of Texas

APPROVED AS TO FORM:

[Signature]  
Assistant City Attorney  
City of Austin

# **Exhibit A**

## **Land**

**LANDATA FIELD SERVICES, INC.**

AUSTIN DIVISION

**FIELD NOTES DESCRIBING 6.926 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT SITUATED IN TRAVIS COUNTY, TEXAS AND BEING THAT SAME PROPERTY IN THE NAME OF SBF LAKESHORE, LTD., A TEXAS LIMITED PARTNERSHIP RECORDED IN VOLUME 12012, PAGE 2592, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID 6.926 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a 1/2" iron rod found in the North right-of-way line of South Lakeshore Boulevard, same being the common front corner of said SBF Lakeshore LTD. tract and that certain tract of land in the name of Barbara and Arlene Hibits per deed recorded in Volume 11832, Page 1266, said Real Property Records, same being Lot D, Riverside Divide Section 3, a subdivision in Travis County, Texas, recorded in Book 75, Page 153, Plat Records of Travis County, Texas, for the most Southerly southwest corner of said SBF Lakeshore LTD. tract and the **PLACE OF BEGINNING** hereof;

**THENCE** N 27° 06' 50" E (N 27° 06' 50" E), with the common line of said SBF Lakeshore LTD. tract and said Lot D, a distance of 229.03 ft. (229.06 ft.) to a 1/2" iron rod found for the Northeast corner of said Lot D and an inside ell corner of said SBF Lakeshore LTD. tract and hereof;

**THENCE** N 62° 46' 12" W (N 62° 47' 07" W), with the common line of said Lot D, Riverside Divide Section 3, Lots 2 and 1, Resub of Lots B & C, Riverside Divide Section 3, a subdivision in said county and state recorded in Book 75, Page 288, said Plat Records, and Lot A, said Riverside Divide Section 3, a distance of 412.53 ft. (412.63 ft.) to a 1/2" iron rod found in the East line of Lot 1-A, Shamrock Addition, a subdivision recorded in Book 43, Page 47, said Plat Records, for the most Westerly corner of said SBF Lakeshore LTD. tract and hereof;

**THENCE** N 30° 43' 38" E (N 30° 44' 27" E), with the common line of said Lot 1-A and said SBF Lakeshore LTD. tract, a distance of 408.92 ft. (409.00 ft.) to a point inundated by the waters of Town Lake, for the Northwest corner of said SBF Lakeshore LTD. and hereof;

**THENCE** with the common line of said SBF Lakeshore LTD. tract and said Town Lake, the following three (3) courses and distances:


- (1) S 60° 40' 28" E (S 60° 40' 28" E), a distance of 155.20 ft. (155.20 ft.) to a point inundated by said waters of Town Lake
- (2) S 60° 20' 42" E (S 60° 20' 00" E), a distance of 352.97 ft. (353.00 ft.) to an "X" found in concrete retaining wall
- (2) S 66° 03' 09" E (S 66° 05' 00" E), a distance of 140.02 ft. (140.00 ft.) to a point inundated by said waters of Town Lake, same being the Northwest corner of Lot 2, Block A, Townlake Plaza, a subdivision recorded in Book 81, Page 38, said Plat records, conveyed to Streets of Texas per Volume 11098, Page 1050, said Real Property Records, for the Northeast corner of said SBF Lakeshore LTD. tract and hereof;

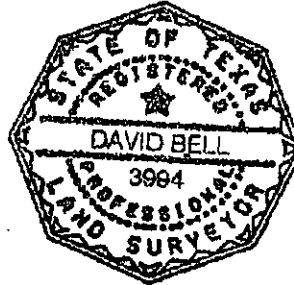
**THENCE** S 29° 34' 00" W (S 29° 34' 00" W), with the common line of said Lot 2 and said SBF Lakeshore LTD. tract, a distance of 527.38 ft. (527.38 ft.) to a 1/2" iron rod set in the said North right-of-way line of South Lakeshore Boulevard for the most Southerly corner of said SBF Lakeshore LTD. tract and hereof;

THENCE along said right-of-way line and with the South line of said SBF Lakeshore LTD. tract, the following two (2) courses and distances:

(1) N 83° 39' 00" W (N 83° 39' 00" W), a distance of 130.33 ft (130.33 ft.) to a PK nail set

(2) N 86° 32' 40" W (N 86° 33' 00" W), a distance of 127.00 ft. (127.00 ft.) to the PLACE OF BEGINNING and containing 6.926 acres (301,675 sq. ft.). Bearings shown herein are oriented to the common line of said Lot D, Riverside Divide Section 3 and said SBF Lakeshore LTD. tract. These field notes to accompany a survey plat of the area herein described.

 date 10/6/98  
DAVID BELL  
Registered Professional Land Surveyor No. 3994  
JOB No. 08R11398  
(Denotes Record Information)





## **EXHIBIT B**

### **The Land**

TRACT I: Lot "A", Riverside Divide Section 3, a subdivision in Travis County, Texas, according to the map or plat recorded in Volume 75, Page 153, Plat Records of Travis County, Texas.

TRACT II: Lot "D", Riverside Divide Section 3, a subdivision in Travis County, Texas, according to the map or plat recorded in Volume 75, Page 153, Plat Records of Travis County, Texas.

TRACT III: Lot 1, Resub of Lots B & C, Riverside Divide Section 3, a subdivision in Travis County, Texas, according to the map or plat recorded in Volume 75, Page 288, Plat Records of Travis County, Texas.

TRACT IV: Lot 2, Resub of Lots B & C, Riverside Divide Section 3, a subdivision in Travis County, Texas, according to the map or plat recorded in Volume 75, Page 288, Plat Records of Travis County, Texas.

TRACT V: Lot 1A, Shamrock Addition, an addition in Travis County, Texas, according to the map or plat recorded in Volume 43, Page 47, Plat Records of Travis County, Texas.

TRACT VI: Lot 2A, Shamrock Addition, an addition in Travis County, Texas, according to the map or plat recorded in Volume 43, Page 47, Plat Records of Travis County, Texas.

After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Diana Minter, Paralegal

**Recorders Memorandum**-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

## FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



2007 Mar 05 03:48 PM 2007039123

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DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS